

## Remarks/Arguments

### Claim Rejections 35 USC § 112

Claim 3 was rejected under 35 U.S.C. 112 ,2<sup>nd</sup> paragraph , as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

With regard to claim rejections under 35 USC section 112, claims 3, 4, 18, 25, and 29 have been amended to better reflect the ratios of one ingredient to the other ingredients in the supplement and are believed allowable.

### Claim Rejections-35 USC § 102

Claims 1-14 and claim 22 were rejected under 35 U.S.C. 102(b) as anticipated by Glabe, et al.(US Pat. 4,161,543).

The examiner stated that Patent '543 teaches a process of feeding animals, including dairy cows, a feed supplement containing sodium diacetate and whey in order to increase milk production. Whey is stated as mostly composed of carbohydrates containing lactose and dextrose.

With respect to rejections under 35 USC section 102 (b) on the basis of Glabe '543, claims 1 and 15 and 24 have been amended to specifically recite certain sugars, not including lactose. In fact, another Glabe patent, US patent 4,196,194, column 1, the table at line 52 states that whey contains a carbohydrate that is virtually all lactose. Since lactose is not included in the recited sugars in the claims, the amended claims overcome the rejection under 35 USC§102(b).

Claims 1-14 and claim 22 were rejected under 35 USC 102(b) as anticipated by Glabe et al. (US Pat. 4,196,194). The examiner stated the Glabe reference describes a composition

containing sodium diacetate and carbohydrates from many sources (corn, silage, whey, hay) that increases milk production in the animals. However, Glabe, US patent 4,196,194, column 1, the table at line 52 states that whey contains a carbohydrate that is virtually all lactose. Since lactose is not included in the recited sugars in the claims, the amended claims overcome the rejections under 35 USC §102(b).

Claims 1-14 and claim 22 were rejected under 35 USC §102(b) as anticipated by Glabe et al. (US Pat. 4,015, 018). The examiner states the patent teaches a composition fed to dairy cattle. The composition includes corn, sorghum, dehydrated whey and bentonite in addition to sodium diacetate.

However, the '018 patent refers to producing silage through fermentation using sodium diacetate and whey. The reference at column 7, line 23 teaches improving the protein value of the silage. The reference teaches nothing about use of simple sugars and sodium diacetate to improve feed consumption in ruminants. The reference does not teach each and every element of the instant claims of the application, and the rejection under §102(b) should be withdrawn.

#### Claim Rejections 35 USC §103

Claims 15-32 were rejected under 35 USC §103(a) as being unpatentable over Glabe, et al. (US Pat. 4,015,018) in view of Glabe et al. (US Pat. 3,925,559) .

The examiner states that the '018 patent teaches a composition of whey and sodium diacetate. The composition amount can be varied per ton of feed. The examiner further states that the '559 patent teaches specific amounts of sodium diacetate in preparing feed composition and are used for improving the taste of the feed to the animals. The examiner opines that one would be motivated to vary the ratio of sodium diacetate to carbohydrate to make the feed most attractive to dairy cattle. The cattle would subsequently feed for a long time, thereby increasing

their weight. The examiner discussed varying the contents of sodium diacetate and whey to render the feed impervious to mold growth..

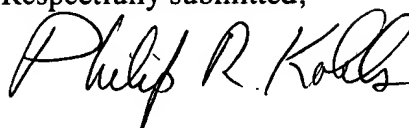
According to our reading of US 4,015,018, the process of that patent concerns making silage for cattle and having improved protein content in the feed. The '018 patent does not teach improved milk production with simple sugars and sodium diacetate. This patent does not teach about adding simple sugars and sodium diacetate to fresh feed daily. The patent does not teach about soluble sugars that are lost during silage fermentation which need to be replaced to improve the rumenal environment for bacteria necessary for breaking up complex carbohydrates, (i.e., cellulose) as disclosed in the instant application.

In US 3,925,559, sodium diacetate is used in this patent as an attractant in improving the taste of the feed. The patent discusses improving the palatability of complex plant products such as corn. It does not teach improved milk production with simple sugars and sodium diacetate. This patent does not teach about adding simple sugars and sodium diacetate to fresh feed daily. The patent does not teach about soluble sugars that are lost during silage fermentation which need to be replaced to improve the rumenal environment for bacteria necessary for breaking up complex carbohydrates, (i.e., cellulose) as disclosed in the instant application.

The instant application discusses the use of sodium diacetate and a simple sugar to improve the balance of microbial growth in the rumen in order to improve the digestion of carbohydrates from cellulose in plant products. We find nothing in either of the cited patents that teaches the combination of sodium diacetate and a simple sugar to improve the rumenal environment to aid digestion of common feed, and hence there is nothing to suggest their combinations or the result of any proposed combination.

The Examiner is invited to telephone the undersigned if the Examiner believes it would be useful to advance prosecution.

Respectfully submitted,



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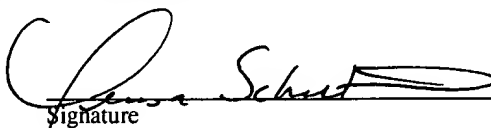
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